C.S. 100/-

(1)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

WRIT PETITION No. 126 OF 2006

PETITIONER :- C.Kum.Girija Prasad, daughter of late C.J.Prasad, aged about 24 years, resident of C. Padmavati House No.248, Shanimudi, P.O. Gopalpur, Tah: Katghora, Dist: Korba (C.G).

Vs.

RESPONDENTS :-

1. State of Chhattisgarh: Through: Secretary, Chhattisgarh State Electricity Board, D.K.Bhawan, Raipur (C.G).

2. Chief Engineer, Chhattisgarh State Electricity Board, Raipur (C.G)

3. Chief Engineer, Chhattisgarh State Electricity Board, H.T.P.S. Korba (East).

P.R. No. 1277/06 Presented by Sri Arun Shukla dated 2/3/06

RECEIVED-COPY 1-3-06 CLERK to A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

(79)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 1216 of 2006

Petitioner : C. Kum. Girija Prasad

Versus

Respondent : State of Chhattisgarh & others

Dr. Shailesh Ahuja, Advocate for the petitioner.

Shri A. S. Gaharwar, Advocate for the respondents.

ORDER

(Passed on this 14th day of December, 2006)

1. The father of the petitioner namely Shri C. J. Prasad was working as Assistant Grade-II in the office of the Executive Engineer (Bhandar), Hansdeo Thermal Power House, Madhya Pradesh Electricity Board, Korba (West). The father of the petitioner was missing from 2.6.1995. Thereafter wife of Shri C.J. Prasad (missing employee) filed a civil suit in the Court of Civil Judge, Class-II, Katghora. Learned Civil Court vide judgment dated 9.7.2003 decreed the suit declaring the missing employee Shri C. J. Prasad as dead.
2. The petitioner, daughter of Shri C. J. Prasad, being dependent legal heir of the deceased employee sought for compassionate appointment. The respondents after having considered the case of the petitioner for compassionate, has passed the order dated 28.11.2005 (Annexure P/1) to the effect that the petitioner is not entitled to get compassionate appointment.
3. The petitioner has filed this petition seeking a direction to the respondents to grant compassionate appointment to the petitioner.

4. Be that as it may, the father of the petitioner was missing for the 10 years and the petitioner did not have any financial problem during this period. The very purpose of grant of compassionate appointment is to provide succor to family to tide over financial crisis.

5. It is well settled that the appointment on compassionate ground is not a method of recruitment, but, is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment. It is also well settled that mere death of the employee does not entitle his family to claim compassionate appointment if the family members could sustain themselves financially from other sources of income.

6. In **Haryana State Electricity Board and another Vs. Hakim Singh** { (1997) 8 SCC 85 } the Supreme Court held that "the whole object of any compassionate appointment scheme is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning member."

7. The Supreme Court in the case of **State of J & K and others Vs. Sajad Ahmd Mir** { (2006) 5 S.C.C. 766 }, in para 11 has held as under :-

> "11.....it is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as,

death of the sole breadwinner and likelihood of the family suffering because of the setback. Once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution."

8. In view of the above settled principles of law there is no merit in this petition. The petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur